

Panaji, 6th June, 1985 (Jyaistha 16, 1907)

SERIES I No. 10

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Department of Personnel and Administrative Reforms

Notification

1/9/74-PER(Vol.II)

In exercise of the powers conferred by the proviso to Article 309 of the Constitution, read with the Government of India, Ministry of Home Affairs, Notification No. F.1/29/68-GP dated 29th June, 1968 and in supersession of the existing recruitment rules for the post, the Lieutenant Governor of Goa, Daman and Diu hereby makes the following rules relating to recruitment to the General Central Service, Group 'A' Gazetted Post in the Town and Country Planning Department under Government of Goa, Daman and Diu, namely: —

1. Short title, application and commencement. —

(1) These rules may be called the Government of Goa, Daman and Diu, Town and Country Planning Group 'A' Gazetted post Recruitment Rules, 1985.

(2) *Application.* — These rules shall apply to the posts specified in Column 1 of the Schedule to these rules (hereinafter called as the "said Schedule").

(3) They shall come into force from the date of publication in the Official Gazette.

2. Number, classification and scales of pay: —

The number of posts, classification of the said posts and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the said Schedule:

Provided that the Government may vary the number of posts in column 2 of the said Schedule from time to time subject to exigencies of work.

3. *Method of recruitment, age limit and other qualifications:* — The method of recruitment to the said posts, age limit, qualifications and other matters connected therewith shall be as specified in columns 5 to 13 of the said Schedule.

4. *Disqualification:* — No person who has entered into or contracted a marriage with a person having a spouse living or who, having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the service:

Provided that the Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage or that there are other grounds for so doing, exempt any person from the operation of this rule.

5. *Power to relax:* — Where the Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing and in consultation with the Union Public Service Commission, relax any of the provisions of these rules with respect to any class or category of persons.

6. *Saving:* — Nothing in these rules shall affect reservation of age limit and other concessions required to be provided for Scheduled Castes, Scheduled Tribes and other Special categories of persons in accordance with the orders issued by the Central Government from time to time in that regard.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

N. P. Gaunekar, Under Secretary (Personnel).

Panaji, 15th April, 1985.

SCHEDULE

| Name of the post | No. of posts | Classification | Scale of pay | Whether selection post or non selection post | Age limit for direct recruits | Whether benefit of added years of service admissible under rule 30 of the C. C. S. (Pension) Rules, 1972 | Educational and other qualifications required for direct recruits | Whether age & Educational Qualifications prescribed for the direct recruit will apply in the case of promotees | Period of probation, (if any) | Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer, and percentage of the vacancies to be filled by various methods | In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer is to be made | If a D. P. C. exists, what is its composition | Circumstances in which Union Public Service Commission is to be consulted in making recruitment |
|--------------------|--|---|----------------------------|--|---|--|--|--|-----------------------------------|--|---|--|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 6(a) | 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| Chief Town Planner | 1 (1985) Subject to variation dependent on workload. | General Central Service Group 'A' Gazetted. | Rs. 1500-60-1800-100-2000. | N. A. | Not exceeding 45 years (Relaxable for Government servants upto 5 years in accordance with the instructions or orders issued by the Central Government). | No | Essential: i) Postgraduate Degree/Diploma in Regional/Urban/City./Town Planning from a recognised University or equivalent; ii) 10 years experience in a responsible position in town planning. iii) Knowledge of town planning laws and civic designs. Note 1: Qualifications are relaxable at the discretion of the U. P. S. C. in case of candidates otherwise well qualified. Note 2: The qualification(s) regarding experience is/are relaxable at the discretion of the U.P.S.C. in the case of candidates belonging to Scheduled Castes and Scheduled Tribes if, at any stage of selection, the U. P. S. C. is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them. Desirable: i) Fellowship of the Institute of Town Planning (India) or equivalent Membership of Professional Institutes. | Age: No Edl. Ql: Yes | For direct recruit only one year. | By promotion/transfer on deputation failing which by direct recruitment. | Promotion/Transfer on Deputation: 1. Officers under the Central/State Governments and Union Territories: — (a) (i) holding analogous posts; or ii) with 3 years service in posts in the scale of Rs. 1300-1700 or equivalent; or iii) with 5 years' service in posts in the scale of Rs. 1100-1600 or equivalent; and (b) possessing the educational qualifications and experience prescribed for direct recruits under Col. 7. (2) The departmental Senior Planner with three years regular service in the grade will also be considered and in case he is selected for appointment to the post, the same shall be deemed to have been filled by promotion. (The departmental officers in | Group 'A' D. P. C. (for considering confirmation). i) Chief Secretary — Chairman. ii) Administrative Secretary — Member. Note: The Proceedings of the D.P.C. relating to confirmation shall be sent to the Commission for approval. If, however, these are not approved by the Commission a fresh meeting of the D.P.C. to be presided over by the Chairman or a Member of the U.P.S.C. shall be held. | Selection on each occasion shall be made in consultation with the Union Public Service Commission. Consultation with the Union Public Service Commission also necessary while amending/relaxing any of the provisions of these rules. |

the feeder category who are in the direct line of promotion will not be eligible for consideration for appointment on deputation. Similarly, deputationists shall not be eligible for consideration for appointment by promotion. Period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same organisation/depart-ment shall not exceed 4 years.)

ii) Degree or Diploma in Architecture/Civil Engineering from a recognised University or equivalent;

Law Department

Legal Affairs Branch

Notification

LD/8/3/85-L.A.B.

The Constitution (Fifty-Second Amendment) Act, 1985, which was passed by Parliament and assented to by the President of India on 15th February, 1985 and published in the Gazette of India, Extraordinary, Part II, Section I dated 15-2-1985, is hereby republished for the general information of the public.

B. S. Subbanna, Under Secretary (Drafting) to the Government of Goa, Daman and Diu.

Panaji, 20th May, 1985.

The Constitution (Fifty-Second Amendment) Act, 1985

AN

ACT

further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Constitution (Fifty-second Amendment) Act, 1985.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of article 101.*—In article 101 of the Constitution, in sub-clause (a) of clause (3), for the words, brackets and figures "clause (1) of article 102", the words, brackets and figures "clause (1) or clause (2) of article 102" shall be substituted.

3. *Amendment of article 102.*—In article 102 of the Constitution,—

(a) for the brackets, figure and words "(2) For the purposes of this article", the words "*Explanation.*—For the purposes of this clause" shall be substituted;

(b) the following clause shall be inserted at the end, namely:—

"(2) A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule."

4. *Amendment of article 190.*—In article 190 of the Constitution, in sub-clause (a) of clause (3), for the words, brackets and figures "clause (1) of article 191", the words, brackets and figures "clause (1) or clause (2) of article 191" shall be substituted.

5. *Amendment of article 191.*—In article 191 of the Constitution,—

(a) for the brackets, figure and words "(2) For the purposes of this article", the words "*Explanation.*—For the purposes of this clause" shall be substituted;

(b) the following clause shall be inserted at the end, namely:—

“(2) A person shall be disqualified for being a member of the Legislative Assembly or Legislative Council of a State if he is so disqualified under the Tenth Schedule.”.

6. *Addition of Tenth Schedule.* — After the Ninth Schedule to the Constitution, the following Schedule shall be added, namely:—

TENTH SCHEDULE

[Articles 102(2) and 191(2)]

Provisions as to disqualification on ground of defection

1. *Interpretation.* — In this Schedule, unless the context otherwise requires,—

(a) “House” means either House of Parliament or the Legislative Assembly or, as the case may be, either House of the Legislature of a State;

(b) “legislature party”, in relation to a member of a House belonging to any political party in accordance with the provisions of paragraph 2 or paragraph 3 or, as the case may be, paragraph 4, means the group consisting of all the members of that House for the time being belonging to that political party in accordance with the said provisions;

(c) “original political party”, in relation to a member of a House, means the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2;

(d) “paragraph” means a paragraph of this Schedule.

2. *Disqualification on ground of defection.* — (1) Subject to the provisions of paragraphs 3, 4 and 5, a member of a House belonging to any political party shall be disqualified for being a member of the House —

(a) if he has voluntarily given up his membership of such political party; or

(b) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation. — For the purposes of this sub-paragraph,—

(a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member;

(b) a nominated member of a House shall, —

(i) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party;

(ii) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election.

(3) A nominated member of a House shall be disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

(4) Notwithstanding anything contained in the foregoing provisions of this paragraph, a person who, on the commencement of the Constitution (Fifty Second Amendment) Act, 1985, is a member of a House (whether elected or nominated as such) shall, —

(i) where he was a member of a political party immediately before such commencement, be deemed, for the purposes of sub-paragraph (1) of this paragraph, to have been elected as a member of such House as a candidate set up by such political party;

(ii) in any other case, be deemed to be an elected member of the House who has been elected as such otherwise than as a candidate set up by any political party for the purposes of sub-paragraph (2) of this paragraph or, as the case may be, be deemed to be a nominated member of the House for the purposes of sub-paragraph (3) of this paragraph.

3. *Disqualification on ground of defection not to apply in case of split.* — Where a member of a House makes a claim that he and any other members of his legislature party constitute the group representing a faction which has arisen as a result of a split in his original political party and such group consists of not less than one-third of the members of such legislature party, —

(a) he shall not be disqualified under sub-paragraph (1) of paragraph 2 on the ground —

(i) that he has voluntarily given up his membership of his original political party; or

(ii) that he has voted or abstained from voting in such House contrary to any direction issued by such party or by any person or authority authorised by it in that behalf without obtaining the prior permission of such party, person or authority and such voting or abstention has not been condoned by such party, person or authority within fifteen days from the date of such voting or abstention; and

(b) from the time of such split, such faction shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this paragraph.

4. *Disqualification on ground of defection not to apply in case of merger.* — (1) A member of a

House shall not be disqualified under sub-paragraph (1) of paragraph 2 where his original political party merges with another political party and he claims that he and any other members of his original political party —

(a) have become members of such other political party or, as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group,

and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this sub-paragraph.

(2) For the purposes of sub-paragraph (1) of this paragraph, the merger of the original political party of a member of a House shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the legislature party concerned have agreed to such merger.

5. *Exemption.* — Notwithstanding anything contained in this Schedule, a person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State, shall not be disqualified under this Schedule, —

(a) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party or become a member of another political party; or

(b) if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office.

6. *Decision on questions as to disqualification on ground of defection.* — (1) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final:

Provided that where the question which has arisen is as to whether the Chairman or the Speaker of a House has become subject to such disqualification, the question shall be referred for the decision of such member of the House as the House may elect in this behalf and his decision shall be final.

(2) All proceedings under sub-paragraph (1) of this paragraph in relation to any question as to disqualification of a member of a House under this Schedule shall be deemed to be proceedings in Parliament within the meaning of article 122 or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212.

7. *Bar of jurisdiction of courts.* — Notwithstanding anything in this Constitution, no court shall have any jurisdiction in respect of any matter connected with the disqualification of a member of a House under this Schedule.

8. *Rules.* — (1) Subject to the provisions of sub-paragraph (2) of this paragraph, the Chairman or the Speaker of a House may make rules for giving effect to the provisions of this Schedule, and in particular, and without prejudice to the generality of the foregoing, such rules may provide for —

(a) the maintenance of registers or other records as to the political parties, if any, to which different members of the House belong;

(b) the report which the leader of a legislature party in relation to a member of a House shall furnish with regard to any condonation of the nature referred to in clause (b) of sub-paragraph (1) of paragraph 2 in respect of such member, the time within which and the authority to whom such report shall be furnished;

(c) the reports which a political party shall furnish with regard to admission to such political party of any members of the House and the officer of the House to whom such reports shall be furnished; and

(d) the procedure for deciding any question referred to in sub-paragraph (1) of paragraph 6 including the procedure for any inquiry which may be made for the purpose of deciding such question.

(2) The rules made by the Chairman or the Speaker of a House under sub-paragraph (1) of this paragraph shall be laid as soon as may be after they are made before the House for a total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the House and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

(3) The Chairman or the Speaker of a House may, without prejudice to the provisions of article 105 or, as the case may be, article 194, and to any other power which he may have under this Constitution direct that any wilful contravention by any person of the rules made under this paragraph may be dealt with in the same manner as a breach of privilege of the House.

Notification

LD/1/9/85-(D)

The Government of Union Territories (Amendment) Act, 1985 (No. 24 of 1985) which was passed by Parliament and assented to by the President of India on 29th March, 1985 and published in the Gazette of India, Extraordinary, Part II, Section I dated 29-3-1985 is hereby republished for the general information of the Public.

B. S. Subbanna, Under Secretary (Drafting).

Panaji, 25th May, 1985.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 29th March, 1985/
Chaitra 8, 1907 (Saka)

The following Act of Parliament received the assent of the President on the 29th March, 1985, and is hereby published for general information:—

The Government of Union Territories (Amendment) Act, 1985

No. 24 of 1985

[29th March, 1985]

An Act further to amend the Government of Union Territories Act, 1963.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Government of Union Territories (Amendment) Act, 1985.

2. *Amendment of section 13.*—In the Government of Union Territories Act, 1963 (hereinafter referred to as the principal Act), in section 13, in clause (a) of sub-section (2), for the word and fi-

20 of 1963

gures "section 14", the words, figures and letter "section 14 or section 14A" shall be substituted.

3. *Insertion of new section 14A.*—After section 14 of the principal Act, the following section shall be inserted, namely:—

"14A. *Disqualification on ground of defection for being a member.*—The provisions of the Tenth Schedule to the Constitution shall, subject to the necessary modifications (including modifications for construing references therein to the Legislative Assembly of a State, article 188, article 194 and article 212 as references, respectively, to the Legislative Assembly of a Union territory, section 11, section 16 and section 37 of this Act), apply to and in relation to the members of the Legislative Assembly of a Union territory as they apply to and in relation to the members of the Legislative Assembly of a State, and accordingly,—

(a) the said Tenth Schedule as so modified shall be deemed to form part of this Act; and

(b) a person shall be disqualified for being a member of the Legislative Assembly of a Union territory if he is so disqualified under the said Tenth Schedule as so modified."

R. V. S. PERI SASTRI,
Secy. to the Govt. of India